

## **NOTICE OF INTENT**

### **Department of State Elections Division**

### **Registrars of Voters (LAC 31:II.Chapter 1)**

Under the authority of R.S. 18:24, R.S. 18:53, and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the State Board of Election Supervisors proposes to amend uniform rules and regulations for the removal of a registrar of voters for cause set forth in Section 103.

### **Title 31 ELECTIONS Part II. Voter Registration**

#### **Chapter 1. Registrars of Voters**

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#### **§103. Removal of Registrar of Voters for Cause**

A. A proceeding for the removal of a registrar shall be commenced by the state board of election supervisors upon the receipt of a resolution from a parish governing authority which includes the following information:

1. accusations of willful misconduct relating to the registrar's official duty, willful and persistent failure to perform his duties, persistent public conduct prejudicial to the administration of the laws relative to the registration of voters that brings the office into disrepute, or conviction of a felony; and
2. favorable adoption of the resolution by at least two-thirds of the membership of the parish governing authority.

B. A proceeding for the removal of a registrar may be commenced by the state board of election supervisors upon the written complaint filed with the state board of election supervisors by one or more natural persons of legal age who reside within the parish served by the registrar whose removal is sought, which complaint includes the following information:

1. the name and mailing address of each complainant;
2. the name of the registrar whose removal is sought and the parish he serves;
3. the reasons the removal is necessary;
4. a full statement of the facts, commissions or omissions upon which the complaint is based, including the names of persons, dates, places and circumstances, so as to fully inform the registrar as to the factual basis for the complaint. No evidence of any fact not alleged in the complaint shall be brought before the board during the hearing;
5. a clear statement that the complainant is seeking the removal of the registrar from office; and

6. signature of each complainant and verified under oath before a notary or two witnesses.

C. The original resolution or complaint shall be filed with the chairman of the state board of election supervisors by personal delivery to his office, or by regular or certified mail. The chairman of the state board of election supervisors shall provide notice of the resolution or complaint to the accused registrar by certified mail, return receipt requested with restricted delivery to addressee only.

D. Upon receipt of the resolution or complaint, the chairman of the board shall examine each resolution or complaint and may reject the resolution or complaint for filing if he finds that it fails to state a cause of action for removal pursuant to R.S. 18:53 or fails to comply with the filing requirements herein. If the chairman rejects the filing of the resolution or complaint, he shall notify the board, the parish governing authority or complainant and the registrar accordingly. If the chairman accepts the filing of the resolution or complaint, he shall notify the board, the registrar, and either the parish governing authority or the complainant of the scheduled hearing date, time and place, to be set no later than 30 days from receipt of the complaint. All notices to the registrar and parish governing authority or complainant shall be by certified mail return receipt requested with restricted delivery. The notice of hearing shall be in compliance with the provisions of R.S. 49:955.

E. If the chairman rejects the filing of the resolution or complaint, the parish governing authority or complainant may amend the resolution or complaint to state a claim within 10 days of the mailing date shown thereon of the rejection of the filing. If the parish governing authority or complainant fails to file an amended resolution or complaint within the time allowed, the chairman of the board shall dismiss the resolution or complaint.

F. The board may consolidate complaints if they relate to common issues or to the same actions or events.

G. The board shall compile and maintain an official record in connection with each resolution or complaint, containing at a minimum a copy of the following:

1. the resolution or complaint, and any board authorized amendments;
2. any written submissions by the parish governing authority, respondent(s), or other interested persons, including any responses authorized by the board;
3. a written report of any investigation conducted or commissioned by the board;
4. copies of all notices and correspondence to or from the board in connection with the resolution or complaint;
5. originals or copies of any tangible evidence produced at any hearing conducted pursuant to these rules;
6. original tape recording produced at any hearing conducted pursuant to these rules and a copy of any hearing transcript; and
7. a copy of any final decision issued by the board.

H. The respondent registrar may file a written answer to the resolution or complaint, notarized or witnessed as provided for herein, prior to the hearing wherein he may admit or deny specifically each of the allegations of the resolution or complaint, and

otherwise answer to the resolution or complaint. The board for good cause shown may allow an extension of the time period for answering, if requested by the respondent.

I. Postponements or continuances of any hearing are subject to board approval.

J. Either party or the board, at their cost, may order copies of the transcription of the testimony using the state's uniform fee schedule for copies of public records.

K. The hearing shall be conducted in accordance with the provisions of the Administrative Procedures Act. A complainant, respondent, or other person who testifies or presents evidence at the hearing may, but need not, be represented by an attorney.

L. The board shall render its decision within 10 days after the hearing. All decisions shall comply with the requirements of R.S. 49:958. The decision shall become final 30 days after the mailing date shown thereon, unless a rehearing has been timely requested by either party, or unless the registrar, whose removal has been ordered, files a petition for judicial review by trial de novo in the Nineteenth Judicial District Court before the expiration of the 30-day period.

M. A rehearing may be requested within 10 days from the date of the board's written decision on the grounds listed in R.S. 49:959, and if requested timely, the board shall follow the procedures for rehearing in accordance with R.S. 49:959.

N. If the respondent registrar requests a rehearing, the decision upon rehearing, or denial thereof, shall become final 30 days after the mailing date shown thereon, unless the registrar files a petition for judicial review by trial de novo in the Nineteenth Judicial District Court before the expiration of the 30-day period.

O. All filings and correspondence shall be addressed to: State Board of Election Supervisors, Secretary of State, Department of State, P. O. Box 94125, Baton Rouge, LA 70804-9125.

AUTHORITY NOTE: Promulgated in accordance with R.S. 18:24 and R.S. 18:53.

HISTORICAL NOTE: Promulgated by the Department of State, Board of Election Supervisors, LR 5:328 (October 1979), amended LR 34:

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### **Family Impact Statement**

The proposed Rule LAC 31:II.103 regarding the removal of registrars of voters for cause should not have any known or foreseeable impact on any family as defined by R.S. 49:972D or on family formation, stability, and autonomy. Specifically, there should be no known or foreseeable effect on:

1. the stability of the family;
2. the authority and rights of parents regarding the education and supervision of their children;
3. the functioning of the family;
4. family earnings and family budget;
5. the behavior and personal responsibility of children; and
6. the ability of the family or a local government to perform the function as contained in the proposed Rule.

Interested persons may submit written comments to Angie Rogers LaPlace, Commissioner of Elections, Department of State, P. O. Box 94125, Baton Rouge, LA 70804-9125. She will be responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Tuesday, May 27 at 10:00 a.m. in the XII United Plaza Building (formerly the Broadwing Building), Auditorium, 1<sup>st</sup> Floor at the rear of the building, 8585 Archives Avenue, Baton Rouge, LA. At that time, all interested persons will be afforded an opportunity to submit data, views, or arguments either orally or in writing. The deadline for the department to receive written comments is 4:30 p.m. on Wednesday, May 28, 2008 after the public hearing.

Jay Dardenne  
Secretary of State